

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 22, 2008, (hereinafter Office Action) have been considered, and reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully maintains the traversal of each of the § 103(a) rejections based at least upon the teachings of U.S. Publication No. 2002/0122401 by Xiang *et al.* (hereinafter “Xiang”) as combined with those of U.S. Publication No. 2006/0247042 by Walker *et al.* (hereinafter “Walker”) because the asserted references alone, or in combination, do not teach or suggest at least the limitations directed to data streaming communication or requesting suspension thereof. The assertion that Xiang’s voice call would correspond to data streaming communication (*e.g.*, voice streaming service) fails to recognize the distinction between voice connections and data connections as described in Xiang. Xiang defines voice connections as circuit switched connections and data connections as packet switched connections and does not teach or suggest that packet switched connections could have voice connections. Thus, Xiang’s data connections are low rate connections transferring packet data messages whereas the voice connections transfer only voice calls (*see, e.g.*, paragraphs [0021] and [0022]). In contrast, the claimed data streaming connection is a data connection that transfers voice. Neither Xiang’s data sessions nor voice calls correspond to the claimed data streaming communication; therefore, Xiang at least fails to teach or suggest data streaming communication or requesting suspension thereof, as claimed.

Applicant also maintains that Walker does not teach or suggest the limitations directed to data streaming communication. The cited portions of Walker do not teach or suggest that the service provided to a gamer is a data streaming communication, as claimed. Rather, Walker is directed to providing a service at an application level where communication connection types between a client device and server are not relevant. Cited paragraph [0056] merely lists game machines that may be provided to a player, but no streaming data connections are mentioned. As neither of the asserted references has been shown to at least teach the limitations directed to data streaming communication, any

combination thereof must also fail to teach such limitations. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejections should be withdrawn.

Notwithstanding the above, in an effort to facilitate prosecution Applicant has amended the independent claims to characterize that the server is external to the network infrastructure. Support for these changes may be found in the instant Specification, for example, in Figs. 1 and 2 and at paragraph [0023]; therefore, these changes do not introduce new matter. Xiang teaches that when a voice connection is put on hold, communication resources are released up to the mobile switching center (MSC) for the duration of an incoming data connection. However, the MSC is an internal server of the wireless telecommunication network (asserted as corresponding to the claimed network infrastructure) of Xiang. Also, while server 19 of Figs. 3 and 4 may be external to Xiang's wireless network, Xiang does not teach the claimed data streaming connection between a mobile terminal and a server as explained above. Therefore, each of the claims is believed to be patentable over the cited references for the reasons set forth above and further because the asserted references do not teach at least requesting for suspension of a data streaming communication from a server that is external to the network infrastructure providing the radio interface connection between the server and terminal.

Xiang also fails to teach or suggest requesting for suspension of data streaming communication from the server (other endpoint of the connection) on the basis of a first mode change command, as claimed in each of the independent claims. In contrast, Xiang teaches that a voice connection is suspended between terminal 2 and the MSC leaving the connection between terminal 1 (the other endpoint of Xiang's voice connection) and the MSC active. Although Xiang may suspend a connection with a server, the suspension is not between a mobile terminal and a server external to the network infrastructure, nor is it a suspension of a data streaming connection from the other endpoint of the data streaming connection. As the asserted references do not alone, or in combination, teach or suggest the claimed data streaming between a mobile terminal and an external server and requesting

suspension thereof, the § 103(a) rejections would be improper. Applicant accordingly requests that each of the rejections be withdrawn.

With particular respect to the § 103(a) rejection of Claims 17-25 based upon the above-discussed combination of Xiang and Walker, in view of U.S. Publication No. 2005/0123108 by Smith (hereinafter “Smith”), Applicant respectfully traverses. As discussed above, the combination of Xiang and Walker at least fails to teach requesting for suspension of data streaming communication as claimed in independent Claims 17 (from which Claims 18-24 depend) and 25. The further reliance on Smith has not been shown to overcome the above-discussed deficiencies in the underlying combination. Thus, the asserted combination of the teachings of Xiang, Walker, and Smith does not teach each of the claimed limitations of Claims 17-25, and the rejection should be withdrawn.

Dependent Claims 2-8, 10-16 and 18-24 depend from independent Claims 1, 9 and 17, respectively. Each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combinations of Xiang, Walker and Smith. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with the independent claims above. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2-8, 10-16 and 18-24 should also be patentable over the combinations of Xiang, Walker and Smith.

It should also be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner’s characterizations, conclusions, and rejections in future prosecution.

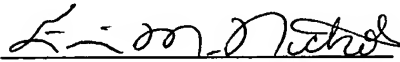
Further, new Claims 26-28 have been added. Support for these claims may be found in the Specification, for example, at paragraph [0025]; therefore the added claims do not introduce new matter. Each of the new claims is believed to be patentable over the asserted references for the reasons set forth above in connection with the independent claims.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.101PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: July 22, 2008

By: 
Erin M. Nichols
Reg. No. 57,125